

U.S. Patent Application Serial No. 10/697,944  
Amendment filed September 5, 2006  
Reply to OA dated May 5, 2006

### **REMARKS**

Claims 1 - 6 are currently pending in this patent application, claims 7 - 20 having been canceled without prejudice or disclaimer in a Preliminary Amendment filed October 31, 2003, and claim 1 being an independent claim.

Claim 1 has been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention. The applicant respectfully submits that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated May 5, 2006.

With respect to the Examiner's comment on the specification, the applicant has amended the specification in order to correct the noted informality therein.

As to the title of the invention, the title has been amended, in its entirety, in order be more descriptive of the applicant's invention. It is requested that the amended title, submitted herewith, be approved by the Examiner.

U.S. Patent Application Serial No. 10/697,944  
Amendment filed September 5, 2006  
Reply to OA dated May 5, 2006

As to the merits of this case, claims 1 - 6 are rejected under 35 USC §102(b) as being anticipated by Okutoh (U.S. Patent No. 6,201,271), cited in the Information Disclosure Statement filed November 15, 2005 (hereinafter, "Okutoh"). The applicant respectfully requests reconsideration of this anticipation rejection.

The applicant's claimed invention, as now recited in independent claim 1, is directed to a semiconductor device having a first insulating film formed over a semiconductor substrate; capacitor constructed by forming a lower electrode, a dielectric film, and an upper electrode sequentially on the first insulating film; a first capacitor protection insulating film covering the dielectric film and the upper electrode; a second capacitor protection insulating film formed on the first capacitor protection insulating film; and a second insulating film formed on the second capacitor protection insulating film, for covering the capacitor. Also recited in claim 1, an amount of carbon contained in the second capacitor protection insulating film is larger than an amount of carbon contained in the second insulating film.

Significant distinguishable structural arrangement of the applicant's claimed semiconductor device, now recited in claim 1, include the first capacitor protection insulating film covering the dielectric film and the upper electrode; the second capacitor protection insulating film formed on the first capacitor protection insulating film; and the second insulating film formed on the second

U.S. Patent Application Serial No. 10/697,944  
Amendment filed September 5, 2006  
Reply to OA dated May 5, 2006

capacitor protection insulating film, for covering the capacitor.

In the outstanding anticipation rejection, the Examiner alleges that layer (12) of Okutoh (diffusion preventing layer) corresponds to the presently claimed “first capacitor protection insulating film” (14); that layer (13) of Okutoh (second interlayer insulating film) corresponds to the presently claimed “second capacitor protection insulating film” (16); and that layer (17) of Okutoh (third interlayer insulating film) corresponds to the presently claimed “second insulating film” (17).

With due respect to the Examiner, the outstanding Action however misinterprets Okutoh’s semiconductor device. The layer (13) of Okutoh (second interlayer insulating film) corresponds to the presently claimed “second insulating film” (17), as layer (13) of Okutoh is the insulating layer which is arranged for covering the capacitor in the same manner as present layer (17).

The applicant submits that if layer (13) of Okutoh corresponds to the presently claimed layer (17), then only layer (12) of Okutoh is present to cover the dielectric film and the upper electrode. Layer (12) of Okutoh is disclosed as being a titanium oxide film for use as a diffusion preventing layer (column 9, lines 47-50). Even if *arguendo* layer (12) of Okutoh is considered to correspond to layer (14) or layer (16) of the present invention, Okutoh’s device still lacks another layer between the capacitor and the “second insulating film”, as presently claimed.

U.S. Patent Application Serial No. 10/697,944  
Amendment filed September 5, 2006  
Reply to OA dated May 5, 2006

In order to more clearly describe the presently claimed “second insulating film” (17) so as to buttress and support the applicant’s above arguments as to which layer of ‘271 corresponds to it, the applicant has amended claim 1 in order to more positively recite, in claim 1, the claimed second insulating film formed on the second capacitor protection insulating film, for covering the capacitor. The basis for this claim amendment is found on page 3, lines 18 - 22 of the applicant’s specification.

Accordingly, since not all of the claimed elements, as now recited in independent claim 1, are found in exactly the same situation and united in the same way to perform the identical function in Okutoh’s apparatus, there can be no anticipation of the claimed invention based on the teachings of Okutoh.

Moreover, claims 2 - 6 depend on independent claim 1, and further limit the scope of claim 1. Thus, at least for the reasons set forth above with respect to claim 1, claims 2 - 6 should now be similarly allowable.

In view of the above, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on Okutoh (U.S. Patent No. 6,201,271), cited in the Information Disclosure Statement filed November 15, 2005, is in order, and is therefore respectfully solicited.

U.S. Patent Application Serial No. 10/697,944  
Amendment filed September 5, 2006  
Reply to OA dated May 5, 2006

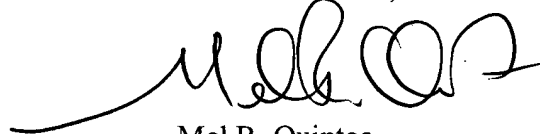
In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,  
HANSON & BROOKS, LLP



Mel R. Quintos  
Attorney for Applicant  
Reg. No. 31,898

MRQ/lrj  
Atty. Docket No. **021557A**  
Suite 1000  
1725 K Street, N.W.  
Washington, D.C. 20006  
(202) 659-2930



23850

PATENT TRADEMARK OFFICE